

April 11, 2022

Ms. Diane Farrell
Deputy Under Secretary for International Trade
Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Re: Request for Comments on the “Indo-Pacific Economic Framework,” ITA-2022-0001

Dear Ms. Farrell,

China Policy Research appreciates this opportunity to provide comment to the U.S. Department of Commerce on the upcoming negotiations for the Administration’s proposed Indo-Pacific Economic Framework (IPEF).

China Policy Research (CPR) is a U.S.-based public policy research organization which focuses on the foreign policy of the People’s Republic of China (PRC) and the foreign policy of other nations toward China. Given the numerous intersections of IPEF negotiations with elements of U.S. strategic competition with China, we are interested in providing insight and recommendations on potential priorities for the United States and its partners to follow in these negotiations.

Background

As publicly acknowledged by many U.S. officials across the legislative and executive branches, the Indo-Pacific region is the most crucial theater of engagement for the United States in matters of security and economics alike. In large part, this importance of engaging in the Indo-Pacific region draws from the need to build strong partnerships in the region to more effectively pursue strategic competition with the People’s Republic of China.

While the United States is the primary partner of choice in the region on security matters, the PRC has gradually come to dominate the region on economic matters. According to data from the Observatory of Economic Complexity, China is the largest trading partner of Australia, India, Indonesia, Japan, Korea, Malaysia, Myanmar, New Zealand, the Philippines, Singapore, Taiwan, Thailand, and Vietnam.¹ Ensuring that the interests of free and democratic nations remain steadfast in the Indo-Pacific region requires the U.S. to engage more forcefully on the economic front in addition to the security front.

¹ <https://oec.world/>

Observations

1. The COVID-19 pandemic showed the vulnerability of supply chains globally and the instability of China-based supply chains in particular.

The onset of the COVID-19 pandemic resulted in widespread and long-lasting supply chain disruptions, many of which continue to affect markets two years later. This crisis has shown the importance of building strong, resilient supply chains with likeminded partners throughout the world and especially in the vibrant Indo-Pacific region. Moreover, the apparent cover-up of the virus's initial outbreak by Chinese Communist Party (CCP) officials indicated a willingness to place political priorities above supply chain security and has therefore shown that economic relations with the regime carry an extra element of instability.²

2. The Chinese Communist Party has shown an unwillingness to adhere to U.S. trade deals and international trade rules.

The Chinese government has repeatedly proven that it does not adhere to the international agreements that it signs. As outlined in the U.S. Trade Representative's 2021 Report to Congress on China's WTO Compliance, China "has not yet implemented some of the more significant commitments that it made in the Phase One Agreement" and "has also fallen far short of implementing its commitments to purchase U.S. goods and services."³ The PRC has also shown that it has no intention of following World Trade Organization (WTO) rules when they do not benefit from them.⁴ U.S. firms would be better served by doing business in freer nations with more credibility in setting and adhering to standards.

3. Trade with the PRC inevitably implicates U.S. supply chains in unacceptable labor abuses.

The genocide of the Uyghur minority in the Xinjiang region of China directly implicated several U.S. companies in potential forced labor schemes. The United States has passed several pieces of legislation in an attempt to prevent forced labor from entering U.S. supply chains, and these efforts are to be commended. However, because evidence shows that Uyghur forced labor and its products are involved in supply chains in numerous eastern Chinese provinces in addition to Xinjiang, *no U.S. company doing business anywhere in China can be positive that its supply chains are free from forced labor.*⁵ As such, it is in the best interests of U.S. firms to shift more of their business to free and democratic nations with stronger human rights records.

² <https://foreignpolicy.com/2021/03/18/china-covid-19-killed-health-care-workers-worldwide/>

³

<https://ustr.gov/sites/default/files/enforcement/WTO/2021%20USTR%20Report%20to%20Congress%20on%20China's%20WTO%20Compliance.pdf>

⁴ <https://www.politico.com/news/2021/12/09/china-wto-20-years-524050>

⁵ <http://nomogaia.org/wp-content/uploads/2021/03/IFC-Xinjiang-Investments-the-tragic-cost-of-bypassing-PS7.pdf>

4. Indo-Pacific democracies provide a tenable replacement for certain U.S. supply chains in China.

The democratic partners of the United States in the Indo-Pacific region provide considerable opportunities for U.S. firms to build strong economic partnerships without the additional instability and political risk that comes with doing business in China. As manufacturing costs in China continue to rise, firms have even more reason to do business with potential Indo-Pacific Economic Framework manufacturing hubs like India and the ASEAN countries.⁶ It is crucial that the U.S. Department of Commerce negotiate effectively on the IPEF to allow for strong, free, rules-based, mutually beneficial connections between the United States and these important Indo-Pacific partners.

Recommendations

I. Ensure that provisions are not only robust, but sustainable.

U.S. abandonment of its past negotiations on the Trans-Pacific Partnership have cast doubt on U.S. economic commitments in the Indo-Pacific region. U.S. negotiators on the Indo-Pacific Economic Framework must ensure that any regional agreement can survive the political oscillations of the country in years to come. Like the TPP negotiations, any IPEF negotiations would soon become meaningless if the agreed provisions cannot secure bipartisan buy-in from Congress today and solid continuity during future Republican and Democratic administrations.

II. Requirements for participation should be flexible.

While provisions included in the Indo-Pacific Economic Framework must be robust and meaningful, they must also be reasonably accessible for a large majority of potential partners in the region. In order to best achieve the strategic goals of the United States and ensure that the IPEF is not limited to those countries which already work most closely with the U.S., reaching broad consensus and wide participation among Indo-Pacific nations should be a main priority. *When absolutely necessary, negotiators should err on the side of wider participation over increased complexity.*

U.S. officials have noted that participation in the Indo-Pacific Economic Framework is likely to be somewhat flexible, such that partner countries can choose to participate in one or more pillars of the agreement while remaining outside of other pillars. This approach should be adhered to during negotiations. U.S. negotiators may also consider whether it may be possible for IPEF partners to participate in only certain subcategories of each pillar without jeopardizing the depth of the framework, to secure maximum participation.

6

https://www.mckinsey.com/~/media/mckinsey/our%20people/matteo%20mancini/understanding_asean_the_manufacturing_opportunity.pdf

III. Taiwanese participation in any agreement is critical.

At least one former U.S. trade official has reportedly expressed doubt that Taiwan will be included in the Indo-Pacific Economic Framework due to the potential of Chinese government pressure on other possible participants.⁷ However, Taiwanese participation in the Indo-Pacific Economic Framework is critical.

Taiwan overwhelmingly dominates the global semiconductor market.⁸ Amid a worldwide semiconductor shortage exacerbated by the COVID-19 pandemic⁹ and an increasingly technologically advanced future around the corner, shoring up semiconductor supply chains for the United States and its partners is perhaps one of the most important areas of focus for supply chain resiliency today. If the IPEF is to work toward supply chain resiliency as a central goal, Taiwan must be at the table.

Greater economic cooperation between the United States and Taiwan is also highly important in the strategic competition between the U.S. and China. The Biden Administration has already shown its commitment to increasing economic ties with Taiwan by resuming the U.S.-Taiwan Trade and Investment Framework Agreement (TIFA)¹⁰ and establishing the Technology Trade and Investment Collaboration (TTIC) framework last year.¹¹ Japan has also already supported Taiwan's economic participation on a multilateral basis by welcoming its application to the CPTPP.¹² This support for multilateral participation must continue in the Indo-Pacific Economic Framework, regardless of Beijing's likely protestations.

IV. Timely opportunities in the Indian market should not be squandered.

India has not always been a friend to free trade; in fact, the 2021 Trade Barrier Index placed India in dead-last place.¹³ In recent months, however, India has expressed willingness to engage in trade negotiations with Australia, Bangladesh, Canada, Ethiopia, the European Union, the United Arab Emirates, the United Kingdom, and the Gulf Cooperation Council, among others. While the Biden Administration has so far rejected pursuing free trade agreements in general, India is a key player to involve in Indo-Pacific Economic Framework negotiations.

India has the second-largest workforce in the world, with manufacturing costs typically below those of China today. India is also the most populous democracy in the world and allows U.S. firms to avoid many of the political risks involved in doing business in China such as broad state-led trade secret theft and complicity in forced labor abuses. India's recent increase in openness toward trade negotiations could

⁷ <https://www.politico.com/newsletters/weekly-trade/2022/02/28/who-will-be-in-bidens-indo-pacific-economic-framework-00012184>

⁸ <https://www.cnbc.com/2021/03/16/2-charts-show-how-much-the-world-depends-on-taiwan-for-semiconductors.html>

⁹ <https://www.weforum.org/agenda/2022/02/semiconductor-chip-shortage-supply-chain/>

¹⁰ <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/june/united-states-and-taiwan-hold-dialogue-trade-and-investment-priorities>

¹¹ <https://www.taiwannews.com.tw/en/news/4367752>

¹² <https://asia.nikkei.com/Economy/Trade/Japan-welcomes-Taiwan-s-CPTPP-bid-citing-island-s-values>

¹³ <https://www.tradebarrierindex.org/>

make this the perfect opportunity for the United States to deepen its partnership with this large growing economy.

V. Strengthen labor provisions against forced labor in supply chains.

Revelations of the Uyghur genocide in the Xinjiang region of China horrified policymakers and business leaders around the world. The United States first banned cotton and tomato imports from Xinjiang due to evidence of forced labor,¹⁴ then late last year banned all imports from the region unless companies could provide proof that forced labor was not involved.¹⁵ Even so, evidence has shown that both products and forced laborers from the Xinjiang region have been sent to other regions of China, making it significantly harder to ensure that supply chains based anywhere in China are actually free from forced labor concerns.¹⁶

The Indo-Pacific Economic Framework should strengthen provisions to track and eliminate forced labor from any part of the supply chain. Countries participating in the IPEF should be sure that not only are the imports between each other free from direct forced labor, but also that the inputs for those imports were not sourced from forced labor in China or other authoritarian countries. Crafting provisions which may encourage industries to shift certain supply chains out of China and into participating IPEF partner countries may also serve to ensure that forced labor is not involved in production.

VI. Address intellectual property issues, including USTR’s identification of “notorious markets.”

The People’s Republic of China is a uniquely egregious violator of intellectual property rights. According to the USTR and Customs and Border Protection, in fiscal year 2019 China and Hong Kong accounted for 92% of all seizures of counterfeit goods at U.S. ports of entry.¹⁷ Despite promises by the PRC to protect intellectual property more forcefully under the Phase One Trade Agreement with the United States, USTR’s 2021 Report to Congress on China’s WTO Compliance found that “inadequacies in China’s intellectual property protection and enforcement regime continue to present serious barriers to U.S. exports and investment.”¹⁸ Though the more free and democratic partners of the United States in the Indo-Pacific tend to have less government-led violation of intellectual property rights as compared to China, problems with IP protection still exist.

Six Indo-Pacific nations other than China—namely, Cambodia, India, Indonesia, Malaysia, Philippines, and Vietnam—were named in USTR’s 2021 Notorious Markets List as the hosts of ten “notorious markets” for intellectual property

¹⁴ <https://www.nytimes.com/2021/01/13/business/economy/xinjiang-cotton-tomato-ban.html>

¹⁵ <https://www.france24.com/en/americas/20211224-us-bans-imports-from-china-s-xinjiang-over-human-rights-abuse>

¹⁶ <http://nomogaia.org/wp-content/uploads/2021/03/IFC-Xinjiang-Investments-the-tragic-cost-of-bypassing-PS7.pdf>

¹⁷ [https://ustr.gov/sites/default/files/files/reports/2021/2021%20Special%20301%20Report%20\(final\).pdf](https://ustr.gov/sites/default/files/files/reports/2021/2021%20Special%20301%20Report%20(final).pdf)

¹⁸

<https://ustr.gov/sites/default/files/enforcement/WTO/2021%20USTR%20Report%20to%20Congress%20on%20China's%20WTO%20Compliance.pdf>

violations.¹⁹ Further, the 2021 International Property Rights Index estimated that only seven countries across Asia and Oceania have stronger overall intellectual property regimes than China, with the rest scoring lower.²⁰ The protection of IP should be a key area of discussion in IPEF negotiations to promote a strong, rules-based network of trusted trade partners which sets itself apart from the IP risks inherent in investing in China.

VII. Craft wide-reaching standards for digital trade and regulation.

IPEF negotiations should aim to build a comprehensive set of standards for digital trade involving as many partners as possible in the region. The overwhelming influence of China in the Regional Comprehensive Economic Partnership (RCEP) negotiations resulted in much weaker digital standards than typical U.S. standards or CPTPP's remaining standards following the exit of the United States from negotiations. Without proper U.S. leadership in the region, the Chinese regime's standards of data localization, promotion of domestic industry, forced technology transfers, and nonreciprocity in data flows could become the dominant set of standards in the region.

The Indo-Pacific Economic Framework should construct digital standards that stand for reciprocity and against data localization and forced technology transfers. It is important to reach consensus among a large number of countries in the region, as this will better allow multinational companies to operate more smoothly and scale up operations in multiple partner countries. This would allow U.S. firms to compete more efficiently against analogous Chinese firms and would also make IPEF partners more attractive for foreign direct investment (FDI), therefore making participation in the framework all the more valuable.

Maintaining strong digital standards with buy-in from a number of regional partners is especially important for small and medium enterprises (SMEs). While the largest firms may be able to comply with a disjointed patchwork of differing digital standards across dozens of countries, SMEs simply do not have the scale to meet the high cost of compliance in the current system. Creating a set of standards which are applicable throughout the region lowers the complexity and cost of compliance while allowing for greater cooperation and prosperity for SMEs in the U.S. and Asia alike.

VIII. Create opportunities to shift critical supply chains to more trustworthy countries.

As tensions between the United States and China continue to mount, it is crucial that the U.S. maintain sufficient critical supply chains outside of China to mitigate single points of failure in the future. For example, in the last quarter of 2021 the United States imported 80% of its lithium-ion batteries from China,²¹ and as of 2018 the

¹⁹ <https://ustr.gov/sites/default/files/IssueAreas/IP/2021%20Notorious%20Markets%20List.pdf>

²⁰ <https://internationalpropertyrightsindex.org/>

²¹ <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/us-lithium-ion-battery-imports-surge-as-auto-energy-sectors-race-to-meet-demand-69048550>

United States imported up to 95% of certain pharmaceutical products like ibuprofen from China.²²

An Indo-Pacific Economic Framework could help build stronger linkages in regional partner countries to ensure that America's critical supply chains become more secure and diversified. Australia, for example, has some of the largest reserves of lithium and rare earth minerals which could be tapped through greater economic integration.²³ India is already a pharmaceutical powerhouse, and several ASEAN countries such as Indonesia and the Philippines have also shown capacity to increase pharmaceutical manufacturing.²⁴ The goal of supply chain resiliency in the IPEF should address resiliency amid the dual possibility of accidental market disruptions like the COVID-19 pandemic and intended market disruptions by foreign adversaries.

IX. Provide enough “carrots” to encourage broad participation.

Traditionally, regional negotiating partners have been particularly motivated by cuts to import tariff rates by the United States and increased access to U.S. consumer markets. Because the IPEF will not address either of these key elements, other carrots offered by U.S. negotiators must be strong enough to encourage a broad selection of countries to believe that joining the framework and making concessions of their own will be worth it.

Additional motivating factors that the United States brings to the table include, but are certainly not limited to: access to substantial American capital markets and foreign investment; access to top science, technology, engineering, and mathematics (STEM) education and training opportunities; many of the world's top technology firms; and leadership of international financial institutions like the International Bank for Reconstruction and Development (IBRD) and International Monetary Fund (IMF). To some extent, partners should also be motivated by the fact that business and investment will gravitate toward those countries which have joined in stable international standards for digital rules and other regulatory issues.

X. Work toward eventual free trade agreements at the bilateral and multilateral levels.

While the current IPEF negotiations do not extend to free trade agreements nor do they plan to address tariff measures or market access, these issues nevertheless remain important to comprehensive U.S. engagement in the Indo-Pacific region. The Biden Administration should pursue the passage of Trade Promotion Authority through Congress, begin exploring accession to the Comprehensive & Progressive Trans-Pacific Partnership (CPTPP), and begin negotiating bilateral trade agreements with a particular focus on a Taiwan Free Trade Agreement.

²² <https://www.politico.com/news/2019/12/20/policymakers-worry-china-drug-exports-088126>

²³ <https://www.thetimes.co.uk/article/australia-to-boost-rare-earths-mining-to-challenge-chinese-dominance-7g938m7bd>

²⁴ <https://www.cphi.com/content/dam/Informa/cphi/sea/en/2020/pdf-files/HLN20CPS-VK-De-Facto-Report-ASEAN-pharma-report.pdf>

Last year a bipartisan group of 42 senators sent a letter to U.S. Trade Representative Katherine Tai requesting that the administration pursue an FTA with Taiwan,²⁵ following similar letter from 50 senators in 2020²⁶ and 161 members of the House of Representatives in 2019.²⁷ Last year the Chairman and Ranking Member of the Senate Finance Subcommittee on International Trade, Customs, and Global Competitiveness also sent a joint letter to USTR Tai encouraging the administration to consider accession to CPTPP.²⁸ Support for real free trade with Indo-Pacific allies is strong across party lines in the United States and should be seriously considered as a next step following these narrower IPEF negotiations.

China Policy Research appreciates the opportunity to provide these comments on the upcoming IPEF negotiations. Please contact us with any questions you have or if we may be of any additional assistance to the Department.

Sincerely,

Rowan Saydlowski,
President
Email: rowan@chinapolicyresearch.com
www.chinapolicyresearch.com
@ChinaPolicyRsch

²⁵ https://www.rubio.senate.gov/public/_cache/files/2e5e4548-e060-4006-b535-00ebd7b55612/18B2876A485CFC7BE521F65FE9F6E309.06.29.21-letter-to-ustr-tai-re-taiwan-fta.pdf

²⁶

<https://www.inhofe.senate.gov/imo/media/doc/10%2001%2020%20Letter%20to%20USTR%20Ambassador%20Lighthizer%20re%20U.S.%20Taiwan%20Trade%20Agreement.pdf>

²⁷

<https://sires.house.gov/sites/sires.house.gov/files/documents/House%20Letter%20to%20USTR%20re%20FTA%20Taiwan.pdf>

²⁸ <https://www.carper.senate.gov/public/index.cfm/2021/5/trade-panel-leaders-carper-cornyn-to-ustr-u-s-must-re-engage-with-asia-pacific-trading-partners-after-misguided-tpp-withdrawal>